

**PT 99-33**

**Tax Type: PROPERTY TAX**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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<b>MT. OLIVE BAPTIST DISTRICT</b>	)		
<b>ASSOCIATION</b>	)		
<b>Applicant</b>	)		
	)	<b>A.H. File #</b>	<b>98-PT-0051</b>
<b>v.</b>	)		
	)	<b>Docket #</b>	<b>97-100-14</b>
<b>THE DEPARTMENT OF REVENUE</b>	)		
<b>OF THE STATE OF ILLINOIS</b>	)	<b>Parcel Index #</b>	<b>01-34-100-002</b>
			<b>01-34-100-009</b>

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**RECOMMENDATION FOR DISPOSITION**

**Synopsis:**

The hearing in this matter was held on October 26, 1998, at 2309 West Main Street, Marion, Illinois, to determine whether or not Williamson County Parcel Index Nos. 01-34-100-002 and 01-34-100-009 qualified for exemption from real estate taxation for all or part of the 1997 assessment year.

Rev. Roger Holmes, moderator of the Mount Olive Baptist District Association (hereinafter referred to as the "Applicant") and Rev. Lawrence James, treasurer of the applicant were present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant is a religious organization; secondly whether the applicant owned these parcels during the 1997 assessment year; and lastly, whether the applicant used all or a portion of these two parcels totaling 60 acres for religious

purposes during the 1997 assessment year. Williamson County Parcel Index No. 01-34-100-002 consists of 40 acres and contains all of the camp buildings and Lake Agnes. Williamson County Parcel Index No. 01-34-100-009 contains 20 acres and is not improved with any buildings.

Following the submission of all of the evidence and a review of the record, it is determined that the applicant is a religious organization. It is also determined that the applicant owned these parcels during the entire 1997 assessment year. It is further determined that the chapel and the land on which it stands, located on Williamson County Parcel Index No. 01-34-100-002 was used for religious purposes during the 1997 assessment year. It is also determined the remaining buildings located on Williamson County Parcel Index No. 01-34-100-002, namely, the meeting hall and the tractor shed, which were not used for religious purposes, the women's dormitory, the men's dormitory and the caretaker's trailer which were vacant and not used during 1997 and the remainder of Williamson County Parcel Index No. 01-34-100-002 were all not used for religious purposes during the 1997 assessment year. Finally it is determined that Williamson County Parcel Index No. 01-34-100-009 was used for farming and not used for religious purposes during the 1997 assessment year.

It is therefore recommended that the chapel and the land on which it stands located on Williamson County Parcel Index No. 01-34-100-002 be exempt from real estate taxation for the 1997 assessment year. It is further recommended that the remainder of Williamson County Parcel Index No. 01-34-100-002 and the remaining buildings thereon, and all of Williamson County Parcel Index No. 01-34-100-009 remain on the tax rolls for the 1997 assessment year and be assessed to the applicant, the owner thereof.

#### Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that these parcels did not qualify for exemption for the 1997 assessment year, was established by the admission in evidence of Department's Exhibit Nos. 1 through 6A.

2. On December 4, 1997, the Williamson County Board of Review transmitted to the Department an Application for Property Tax Exemption To Board of Review concerning the parcels here in issue for the 1997 assessment year. (Dept. Ex. No. 2)

3. On May 14, 1998, the Department advised the applicant that it was denying the exemption of these parcels because said parcels were not primarily in exempt use. (Dept. Ex. No. 3)

4. On May 26, 1998, Rev. Roger Holmes, moderator of the applicant requested a formal hearing in this matter. (Dept. Ex. No. 4)

5. The hearing in this matter conducted on October 26, 1998, was held pursuant to that request. (Dept. Ex. No. 5)

6. At the pretrial conference in this matter, the Administrative Law Judge advised Rev. Holmes that it would be appropriate for the applicant to be represented by legal counsel at the hearing. Rev. Holmes stated at the hearing that the applicant wished to proceed without legal counsel. (Tr. pp. 8 & 9)

7. The applicant acquired the parcels here in issue pursuant to a warranty deed dated August 25, 1953. (Dept. Ex. No. 2A)

8. The applicant was incorporated pursuant to the General Not For Profit Corporation Act of Illinois for the following purposes:

The purpose of this Corporation shall be to do evangelical, missionary, and educational work in the area of Southern Illinois; to promote Christian fellowship among member churches; to promote harmony of feeling and concerted action among member Baptists; and to own and operate necessary facilities consisting of real estate, building, equipment and such other operative measures for the promotion of the kingdom of Christ in the world.

9. The applicant is made up of 19 local churches of the Missionary Baptist faith. (Tr. p. 12)

10. Williamson County Parcel Index No. 01-34-100-002 is a 40-acre parcel which is improved with a chapel, a meeting hall, a tractor shed, a men's dormitory, a women's dormitory and a mobile home. There is a small lake on this parcel known as Lake Agnes. (Dept. Ex. No. 2R)

11. During 1997 there were only two activities held on Williamson County Parcel Index No. 01-34-100-002. The first was a camp opening day during May which consisted of a potluck lunch in the meeting hall and a church service in the chapel. About twenty people attended. The chapel service lasted about 1½ hours. (Tr. pp. 14 & 15, 17, & 21)

12. The other activity was a woman's day which was held in October in 1997. This activity consisted of a religious service in the chapel. (Tr. pp. 16 & 17)

13. It is the custom of the applicant to have a camp school or children's camp on Williamson County Parcel Index No. 01-34-100-002. However, the camp school was not held during 1997 because the applicant was now required to have a sewer system. During 1997, the applicant had not installed that sewer system. (Tr. pp. 13 & 14)

14. During 1997, the tractor shed was used to store the camp tractor and mower, which the applicant used to mow Parcel Index No. 01-34-100-002. (Tr. pp. 17 & 18)

15. During 1997, the men's and women's dorms, which had been used in the years when the camp school was held for lodging for the boys and girls were vacant and not used. (Tr. p. 18)

16. There also was a mobile home on Parcel Index No. 01-34-100-002 which was not habitable during 1997 and consequently remained vacant during that year. The applicant hopes to fix it up and use it as housing for a caretaker. (Tr. p. 18)

17. Williamson County Parcel Index No. 01-34-100-009, which consists of twenty acres, had no buildings on it during 1997. This parcel was farmed during 1997 by a neighboring farmer pursuant to an oral lease with the applicant. The farmer did not pay cash rent to the applicant and was allowed to keep the entire crop which he planted on this 20 acres. The benefit to the applicant of this agreement was that the applicant was not required to mow this 20 acres. (Tr. pp. 19 & 20)

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992).

Concerning property used for religious purposes, 35 ILCS 200/15-40 provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, . . . not leased or otherwise used with a view to profit, is exempt, . . . .

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County Collector v. National College of Education, 41 Ill.App.3d 633 (1st Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) and People ex rel. Lloyd v. University of Illinois, 357 Ill. 369 (1934). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989) and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). It is therefore clear that the burden of proof is on the applicant to establish that it used these parcels and the buildings

thereon for religious purposes.

A religious purpose pursuant to the constitutional provision concerning exemption from taxation is a use of property by a religious society or organization as a place for worship, Sunday schools, and religious instruction. People ex rel. McCullough v. Deutsche Gemeinde, 249 Ill. 132 (1911) (hereinafter referred to as “McCullough”). To qualify for exemption, a property must in fact be used for religious purposes. An exemption will be denied if it is not so used. Thus, for example, a church property that is boarded up and vacant will not qualify for exemption. Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1<sup>st</sup> Dist. 1983) (hereinafter referred to as “Antioch”). In the case of People ex rel. Pearsall v. The Catholic Bishop of Chicago, 311 Ill. 11 (1924), the Illinois Supreme Court held that the mere fact that a property was intended to be used for an exempt purpose was not sufficient to exempt said property. The Court required that the actual primary exempt use must have begun for the property to be exempt. The testimony in this case clearly established that the only building on the parcels here in issue which met the test set forth in McCullough was the chapel where two religious services were held during 1997. While the meeting hall was used for a potluck, this use did not qualify as a religious use pursuant to the test set forth in McCullough. Clearly, the tractor shed was not used for religious purposes. The men’s dormitory, the women’s dormitory and the mobile home were vacant and unused during 1997. These three buildings, pursuant to Antioch, did not qualify for exemption.

Therefore, concerning Williamson County Parcel Index No. 01-34-100-002, I conclude that during 1997 the chapel and the land on which it stands qualified for exemption while the remainder of said parcel did not qualify for exemption.

Concerning Williamson County Parcel Index No. 01-34-100-009, which was leased by the applicant to a neighboring farmer pursuant to an oral agreement whereby the farmer farmed the 20 acres and was allowed to keep the crop, it should first be pointed out that this parcel was most certainly not used for religious purposes during 1997. In the case of Childrens Development Center v. Olson, 52 Ill.2d 332 (1972), the Court determined that in a case where

property owned by an exempt organization is leased, it is the primary use of the property after leasing that determines if the property continues to qualify for tax exemption. The primary use after leasing of Williamson County Parcel Index No. 01-34-100-009 was to provide an income for the neighboring farmer, which was most certainly not an exempt use. *See also* People ex rel. Baldwin v. Jessamine Withers Home, 312 Ill. 136 (1924).

It is therefore recommended that the chapel and the land on which it stands located on Williamson County Parcel Index No. 01-34-100-002 be exempt from real estate taxation for the 1997 assessment year.

It is further recommended that the remainder of Williamson County Parcel Index No. 01-34-100-002 and the remaining buildings thereon, and all of Williamson County Parcel Index No. 01-34-100-009 remain on the tax rolls for the 1997 assessment year and be assessed to the Mt. Olive Baptist District Association, the owner thereof.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
March 22, 1999